

Message Text

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ACTION IO-10

INFO OCT-01 AF-06 ARA-06 EA-07 EUR-12 NEA-10 ISO-00 EB-07

COME-00 TRSE-00 JUSE-00 CIAE-00 DODE-00 PM-04 H-02

INR-07 L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

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INFO USMISSION OECD PARIS

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E.O. 11652: N/A

TAGS: EGEN, UNGA

SUBJ: 30TH UNGA: AGENDA ITEM 12: TRANSNATIONAL CORPORATIONS

REF: STATE 259804 AND USUN 5539

1. LONG AWAITED INFORMAL CONSULTATIONS ON TRANSNATIONAL CORPORATIONS DRAFT RESOLUTION (L.1437) FINALLY TOOK PLACE NOVEMBER 4. REPRESENTING COSPONSORS WERE ALGIERA, EGYPT, IRAN, PAKISTAN, MEXICO, PERU, AND VENEZUELA. ON OTHER SIDE WERE UK, FRG, ITALY, AND U.S.

2. SINCE FORMAT OF MEETING WAS FOR COSPONSORS TO STUDY AND REPORT BACK ON PROPOSED REVISIONS, IT IS NOT POSSIBLE TO MEASURE PROGRESS ACHIEVED. HOWEVER, FOLLOWING TRENDS SEEMED TO EMERGE:

(A) COSPONSORS INDICATED WILLINGNESS TO CAST RESOLUTION IN TERMS OF "CORRUPT PRACTICES OF TRANSNATIONAL AND OTHER ENTERPRISES, THEIR INTERMEDIARIES, AND OTHERS INVOLVED."

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THERE WAS STRONG RESISTANCE TO SPECIFYING "GOVERNMENT OFFI-

CIALS" IN THIS CONTEXT.

(B) IT WAS ACCEPTED THAT "REAFFIRMING" PROVISIONS OF CERDS (PREAMBULAR PARA 4) COULD BE WORKED OUT IF GENERALLY AGREED TEXT ACHIEVED.

(C) OUR PROBLEM WITH REFERENCE IN OP PARA 2 TO "IN ACCORDANCE WITH NATIONAL LAWS AND REGULATIONS" MAY BE RESOLVED BY RECASTING PARA AS PROPOSED REF TEL B.

(D) OP PARA 3 TO BE REVISED BY DELETING PHRASE "HOME AND HOST" AND BY ADDING PHRASE "WITHIN THEIR JURISDICTION."

(E) OP PARA 5 PROVED TO BE POINT OF SERIOUS CONTENTION. SPONSORS INSISTED THAT HOME COUNTRIES SHOULD ADOPT LEGISLATION UNDER WHICH THEY COULD PUNISH THEIR NATIONAL FOR ACTS OF BRIBERY (AND OTHER CORRUPT PRACTICES) WHEN THEY RETURN TO THEIR NATIONAL JURISDICTION. (IN A PRIVATE CONVERSATION, THE IRANIAN REP SAID THAT THE CONCERN WAS THAT VIOLATORS COULD ESCAPE PUNISHMENT BY FLEEING HOME AND, IN THIS CONNECTION, CITED A RECENT EXAMPLE OF ANGERMAN SIEMENS EMPLOYEE ESCAPING IRANIAN PROSECUTION BY RETURNING TO THE FRG.) IT IS NOT AT ALL CLEAR THAT WEO ARGUMENTS RE EXTRATERRITORIALITY, COMPLEXITY, ETC., GOT THROUGH. IN ANY EVENT, PARA LEFT FOR FUTURE NEGOTIATIONS.

3. SPONSORS WERE NOT RECEPTIVE TO OUR EFFORTS TO INTRODUCE SPECIFIC REFERENCE TO RESPONSIBILITY OF HOST COUNTRIES TO ESTABLISH CLEAR LEGAL NORMS. WHILE WE GAINED THE SUPPORT OF WEO'S IN THIS EFFORT G-77 RESPONSE WAS THAT THIS COVERED IMPLICITLY IN OP PARAS 2 AND 3. WE WILL NEVERTHELESS CONTINUE TO PURSUE THIS.

4. FOR THE MOMENT, GENERAL MOOD IS TO ACHIEVE A WIDELY SUPPORTED RES. ACCORDINGLY, WE ANTICIPATE THAT INFORMAL CONSULTATIONS WILL CONTINUE FOR SOME TIME.
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